

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CIVIL 4:05CV3311
)	
v.)	CONSENT JUDGMENT
)	AND DECREE
BRANDI M. LUTT, VILLAGE OF)	OF FORECLOSURE
MARQUETTE, AND STATE OF)	AND ORDER OF SALE
NEBRASKA,)	
)	
Defendant(s).)	

Now on this 13th day of April, 2006, this cause came on for determination upon the Complaint filed herein by the Plaintiff, United States of America. The Plaintiff appears by and through its attorneys, Michael G. Heavican, United States Attorney for the District of Nebraska, and Paul D. Boeshart, Assistant United States Attorney for said District. The Defendant, Brandi M. Lutt, failed to answer or otherwise appear or plead to the allegations contained in the Complaint and said Defendant is in default in this action. The Defendant, Village of Marquette, appears by and through its attorney, Arend R. Baack. The Defendant, State of Nebraska, appears by and through its attorney, Douglas D. Dexter.

THEREFORE, the Court, having examined the record of these proceedings, and having been fully advised in the premises, finds:

That the Court has jurisdiction of these proceedings pursuant to Title 28, United States Code, § 1345;

That due and legal notice of the pendency of this action has been given;

And that the Court has acquired jurisdiction of all the parties.

AND this cause coming on further to be heard on the pleadings and the evidence and being submitted to the Court, on due consideration, the Court finds:

That each and all of the allegations of Plaintiff's Complaint are true;

That Plaintiff is entitled to a Decree of Foreclosure and Order of Sale as prayed;

That the premises herein described will sell to the best advantage in one entire tract.

That there is due and owing to the Plaintiff as of March 2, 2006, the principal sum of \$60,450.42, plus interest credit and subsidy subject to recapture in the amount of \$ 5,632.76, plus accrued interest in the amount of \$5,730.42, together with interest accruing at the rate of \$11.3714 per day from March 2, 2006, until the date of entry of this decree. Interest will accrue on said sums from and after the date of entry of this decree at the legal rate of 4.85% computed daily and compounded annually until paid in full. The amount due Plaintiff as stated herein is the first lien on the following described real estate in Hamilton County, Nebraska, to-wit:

Lots Five (5), Six (6), Seven (7) and Eight (8), Block One (1),
Avon Addition, Village of Marquette, Hamilton County,
Nebraska

That there is due and owing to the Defendant, Village of Marquette, as of March 2, 2006, the principal sum of \$2,204.72, plus accrued interest in the amount of \$261.26,

together with interest accruing at the rate of \$.23 per day from March 2, 2006, until the date of entry of this decree. Interest will accrue on said sums from and after the date of entry of this decree at the legal rate of 4.85% computed daily and compounded annually until paid in full. The amount due the Defendant, Village of Marquette, as stated herein is the second lien on the above-described real estate.

That there is due and owing to the Defendant, State of Nebraska, as of March 8, 2006, the principal sum of \$353.65, plus accrued interest in the amount of \$0.00, together with interest accruing at the rate of \$6.42% per annum from March 8, 2006 until the date of entry of this decree. Interest will accrue on said sums from and after the date of entry of this decree at the legal rate of 4.85% computed daily and compounded annually until paid in full. The amount due the Defendant, State of Nebraska, as stated herein is the third lien on the above-described real estate.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

That judgment should be and hereby is entered against defendants Brandi M. Lutt, Village of Marquette, and State of Nebraska.

That the above and foregoing findings are hereby made a part of this decree and order and by this reference incorporated herein;

That, if the costs as indicated below and the several amounts above found due and interest thereon be not paid within twenty (20) days herefrom, all equity of redemption in said premises be foreclosed and said premises sold as upon execution in one entire tract;

That the Plaintiff shall apply for and the Clerk of the United States District Court shall issue an Order of Sale;

That the United States Marshal for the District of Nebraska shall thereupon advertise and sell, according to law, the aforementioned property;

That, as upon execution, said United States Marshal shall report his proceedings under this Decree and Order to this Court and shall deposit the proceeds of the sale, if any, into the Registry of the Court;

That, upon confirmation of said sale, said Clerk shall apply the proceeds as follows:

First, to the payment of the costs of the Plaintiff, and to the United States Marshal for service of Summons and Complaint and execution of Order of Sale;

Second, to the payment of the amount found due the Plaintiff with interest thereupon according to law;

Third, to the payment of the amount due the Defendant, Village of Marquette, with interest thereupon according to law;

Fourth, to the payment of the amount due the Defendant, State of Nebraska, with interest thereupon according to law;

Fifth, to the payment of the costs of the United States Marshal for per diem and special requirements;

That said Clerk shall retain in the Registry of the Court any surplus from said sale until further order of the Court.

That the aforementioned costs will be determined, after confirmation of sale, pursuant to the procedures described in Rule 54.1 of the Local Rules of the United States District Court for the District of Nebraska.

And that, upon confirmation by the Court of the sale of the aforementioned real estate, the United States Marshal shall execute a deed to the purchaser(s); and the parties of this Decree and Order and all persons claiming under them are ordered to deliver possession of said real estate to such purchaser(s).

BY THE COURT:

s/Joseph F. Bataillon
JOSEPH F. BATAILLON
UNITED STATES DISTRICT JUDGE

Prepared and submitted by:

UNITED STATES OF AMERICA, Plaintiff

By: MICHAEL G. HEAVICAN
United States Attorney
District of Nebraska

And: s/ Paul D. Boeshart
PAUL D. BOESHART #10365
Assistant United States Attorney
487 Federal Building
100 Centennial Mall North
Lincoln, NE 68508-3865
Telephone: 402-437-5241
Fax: 402-437-5390
Email: paul.boeshart@usdoj.gov

Approved as to form and content:

VILLAGE OF MARQUETTE, Defendant

By: s/ Arend R. Baack
AREND R. BAACK #16193
Leininger, Smith, Johnson, Baack, Placzek, Steele & Allen
104 N. Wheeler
P. O. Box 790
Grand Island, NE 68802-0790
Telephone: 308-382-1930
Fax: 308-382-5521
Email: abaack@gilawfirm.com

STATE OF NEBRASKA, Defendant

By: s/ Douglas D. Dexter
DOUGLAS D. DEXTER #19643
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509-8920
Telephone: 402-471-2682
Fax: 402-471-3835
Email: doug.dexter@ago.ne.gov